

GRECO: Fourth Round Evaluation Report on San Marino



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News

On 29 September 2020, GRECO published its [fourth round evaluation report](#) on San Marino. This evaluation round was launched in 2012 in order to assess how states address the prevention of corruption with respect to Members of Parliament (MPs), judges, and prosecutors (for recent reports à [euclid 1/2018, 39-40](#); [3/2019, 184](#) with further references). San Marino is one of the smallest members of GRECO, with an economy based mainly on services, in particular banking and tourism. It is currently negotiating an association agreement with the EU to access the internal market.

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As regards MPs, the 2017 *Conto Mazzini* case, which resulted in the conviction of a large number of persons among the political elite, placed the actions of politicians under closer public scrutiny. GRECO acknowledges the transparency of the legislative process: information is available at every stage, decisions are mainly made by open vote, and exceptions are strictly regulated by law. Because of the part-time status of MPs and the natural proximity between citizens and politicians, however, the report emphasises the need for better regulation of conflicts of interest by introducing the public declaration of assets, income, liabilities, and interests as well as a code of ethics for MPs.



As far as judges and prosecutors are concerned there is no difference between judges and prosecutors as they belong to the same professional corpus of officials (thus, the principle of the unity of the judiciary does apply). However, controversy exists in the country as to the perceived interference of politics in judicial work, e.g., to the composition of the Judicial Council and to recruitment processes (especially when the person is recruited from outside the judicial track). The report also identifies deficiencies regarding the case backlog, particularly in civil matters, current technical means, the publicity of court decisions, and case assignments.

Against this backdrop, GRECO recommends that, based on objective and measurable selection criteria, the composition of the Judicial Council should be changed by providing that at least half of its members are judges elected by their peers and that non-judicial members cannot be members of the executive and the legislative. The appointment and permanent employment of judges should be regulated according to clear and objective criteria, based on merit, with regard to qualification, integrity, ability, efficiency, and a transparent procedure. The criteria for consistent, fair, and objective case allocation should also be strengthened and an analysis of the workload, internal procedures, and resources conducted. To increase transparency, all court decisions shall be published in a user-friendly format and made available to all legal professions and to the public at large. There is further need to update the codes of conduct for judges, accompanied by explanatory comments. Lastly, the disciplinary liability of judges is to be revised, with a view to strengthening its objectivity, efficiency, and proportionality. This should be achieved, in particular by better

defining disciplinary infringements and the requirements for initiating such proceedings as well as by providing for a more nuanced range of sanctions and appeal channels.

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